

Message Text

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INFO OCT-01 EUR-25 ADP-00 L-03 CAB-09 CIAE-00 COME-00

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P 112055 Z APR 73

FM AMEMBASSY BONN

TO SECSTATE WASHDC PRIORITY 4446

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E. O. 11652: N/ A

TAGS: ETRN, GW

SUBJECT: CIVAIR: CHARTERWORTHINESS UNDERSTANDING

REF: (A) BONN 5357, 5358; (B) STATE 66462

1. FULL TEXT OF AGREED MEMORANDUM OF UNDERSTANDING, TO
BE INITIALLED MORNING OF APRIL 12, FOLLOWS:

QUOTE REPRESENTATIVES OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY HAVE DISCUSSED THE CONDITIONS GOVERNING TRAVEL GROUP CHARTER (TGC) FLIGHTS AND ADVANCE BOOKING CHARTER (ABC) FLIGHTS BETWEEN THE UNITED STATES AND GERMANY, AND HAVE CONCLUDED THAT THEIR RESPECTIVE RULES ARE SUBSTANTIALLY SIMILAR, ARE EXPERIMENTAL IN CHARACTER, AND ARE " ADVANCE CHARTER" RULES IN THE TRANSATLANTIC CONNOTATION OF THE TERM. NEVERTHELESS, AT THE PRESENT TIME EACH RULE CONTAINS DISSIMILAR ELEMENTS RELATED TO THE DISTINCTIVE MARKETING CONDITIONS, INTERNAL LEGAL SITUATIONS, AND ENFORCEMENT STRUCTURES OF EACH COUNTRY. THEY RECOGNIZED THAT THESE DISSIMILAR ELEMENTS ARE AN OBSTACLE TO THE CARRIAGE OF ADVANCE CHARTER TRAFFIC BETWEEN THEIR TWO COUNTRIES. THEY RECOGNIZED THAT UNIFORMITY OF RULES WOULD HAVE BEEN PREFERABLE BUT HAS

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NOT BEEN ACHIEVED; THEREFORE, THE SOLUTION WHICH WILL BEST SERVE THE PUBLIC INTEREST IN PRESENT CIRCUMSTANCES IS THAT TRAFFIC CONFORMING WITH THE ADVANCE CHARTER RULES OF THE COUNTRY OF ORIGIN OF THE TRAFFIC SHOULD BE ACCEPTED AS CHARTERWORTHY BY THE OTHER COUNTRY. THIS MEMORANDUM SETS FORTH THE AGREED REGULATORY PROCEDURES TO GIVE EFFECT TO THIS CONCEPT AS WELL AS PARTICULAR ACTIONS EACH PARTY WILL UNDERTAKE FOR THE PERIOD ENDING MARCH 31, 1974.

QUOTE ROMAN ONE. AGREED PROCEDURES FOR MUTUAL IMPLEMENTATION AND ENFORCEMENT OF ADVANCE CHARTER REGULATIONS

QUOTE A. CHARTERWORTHINESS. EACH PARTY UNDERTAKES TO ACCEPT AS CHARTERWORTHY TRAFFIC (A) ORIGINATED IN THE TERRITORY OF THE OTHER PARTY AND ORGANIZED AND OPERATED PURSUANT TO THE ADVANCE CHARTER (TGC OR ABC) RULE (FOOTNOTE ONE) OF THAT PARTY AND (B) ORIGINATED OUTSIDE THE TERRITORY OF EITHER PARTY AND OPERATED PURSUANT TO AN ADVANCE CHARTER RULE WHICH HAS BEEN RECOGNIZED BY THE PARTY TO WHOSE TERRITORY THE CHARTER FLIGHT IS OPERATED. FOR THE PURPOSE OF THIS UNDERSTANDING, THE COUNTRY OF THE ORIGIN OF THE TRAFFIC IS TO BE DETERMINED BY REFERENCE TO A POINT IN THE TERRITORY OF EITHER PARTY (OR A POINT OUTSIDE) FROM WHICH THE GROUP OF ADVANCE CHARTER PASSENGERS DEPARTS ON THE OUTWARD PORTION OF A ROUND- TRIP (INCLUDING CIRCLE AND OPEN- JAW) JOURNEY UNDER THE TGC OR ABC RULES.

QUOTE B. ADMINISTRATION AND ENFORCEMENT. EACH PARTY RESERVES ITS RIGHT TO REQUIRE THE FILING OF CHARTER PROGRAMS ORIGINATING IN THE TERRITORY OF THE OTHER PARTY (FOOTNOTE TWO). TO MINIMIZE THE ADMINISTRATIVE BURDENS OF ENFORCEMENT PROCEDURES ON CARRIERS AND ORGANIZERS, AND AT THE SAME TIME TO COORDINATE ENFORCEMENT PROCEDURES, EACH PARTY:

QUOTE (1) UNDERTAKES NOT TO REQUIRE THE ROUTINE FILING WITH IT OF PASSENGER LISTS AND OTHER DOCUMENTS FOR CHARTER TRAFFIC ORIGINATED IN THE TERRITORY OF THE OTHER PARTY AND ORGANIZED AND OPERATED PURSUANT TO LIMITED OFFICIAL USE

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THE ADVANCE CHARTER RULE OF THAT PARTY AND ORIGINATED

OUTSIDE THE TERRITORY OF EITHER PARTY AND OPERATED
PURSUANT TO AN ADVANCE CHARTER RULE WHICH HAS BEEN
RECOGNIZED BY THE PARTY TO WHOSE TERRITORY THE
CHARTER FLIGHT IS OPERATED (FOOTNOTE THREE).

QUOTE (2) UNDERTAKES THAT ITS REGULATORY AUTHORITIES
WILL TRANSMIT, ON REQUEST, TO THE REGULATORY
AUTHORITIES OF THE OTHER PARTY, PASSENGER LISTS
AND OTHER APPROPRIATE DOCUMENTS TO FACILITATE THE
CONDUCT OF SPOT CHECKS OF FLIGHTS, ESPECIALLY IF

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ON SUCH FLIGHTS THERE IS COMMINGLING OF ABC/ TGC
GROUPS WITH GROUPS ORGANIZED IN ACCORDANCE WITH
OTHER REGULATIONS.

QUOTE (3) UNDERTAKES TO TRANSMIT TO THE REGULATORY
AUTHORITIES OF THE OTHER PARTY, FOR APPROPRIATE
ENFORCEMENT OF ITS RULE, EVIDENCE OBTAINED OF POSSIBLE
RULE VIOLATIONS ON FLIGHTS OPERATED PURSUANT TO THE
ADVANCE CHARTER RULE OF THE OTHER PARTY, RATHER THAN
INTERRUPT THE FLIGHT AND CAUSE INCONVENIENCE TO OR
STRANDING OF THE TRAVELING PUBLIC.

QUOTE (4) INTENDS TO CONDUCT SPOT CHECKS AND TO
CONDUCT OCCASIONAL POST FLIGHT REVIEWS OF ADVANCE

CHARTER FLIGHTS OPERATED PURSUANT TO ITS RULE, TO TAKE APPROPRIATE ACTION WHEN VIOLATIONS ARE OBSERVED, AND REGULATE IN ACCORDANCE WITH ITS NATIONAL LAWS AND REGULATIONS, THE CONDUCT OF CHARTER ORGANIZERS OPERATING ON ITS TERRITORY.

QUOTE C. TARIFFS, RATES AND FARES. TO ASSURE THAT PRICES ARE NEITHER UNREASONABLY HIGH OR LOW TAKING INTO ACCOUNT ALL RELEVANT COSTS, EACH PARTY SHALL REQUIRE THE FILING OF TARIFFS OR PRICE SCHEDULES (AS APPLICABLE) AND ENFORCE CONFORMITY TO TARIFF OR PRICE SCHEDULES ON ALL FLIGHTS OPERATED.

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QUOTE D. OTHER CONSIDERATIONS. TO FURTHER FACILITATE THE DEVELOPMENT OF THE INTERNATIONAL AIR TRANSPORT SYSTEM, THE REGULATORY AUTHORITIES OF EACH PARTY SHALL:

QUOTE (1) STAND READY TO MODIFY THEIR ADVANCE CHARTER RULES SHOULD IT BECOME NECESSARY IN ORDER TO PREVENT UNDUE DIVERSION FROM THE SCHEDULED AIR SERVICES OF EACH BETWEEN THEIR TERRITORIES, OR TO CORRECT ANY SERIOUS EXPERIENCED ENFORCEMENT PROBLEMS.

QUOTE (2) HOLD AN EXCHANGE OF VIEWS AT THE EARLIEST PRACTICAL TIME AFTER A REQUEST TO DO SO HAS BEEN RECEIVED FROM THE OTHER PARTY, ON ANY MATTER COVERED BY THIS MEMORANDUM.

QUOTE (3) WORK TOWARDS ULTIMATELY ACHIEVING COMMONALITY OF ADVANCE CHARTER RULES TO THE EXTENT POSSIBLE IN ORDER TO MINIMIZE THE NECESSARY YIELDING BY EACH PARTY OF SOME CONTROL OVER TRAFFIC ORIGINATED IN THE TERRITORY OF THE OTHER.

ROMAN TWO. PARTICULAR UNITED STATES ACTIONS

QUOTE THE UNITED STATES UNDERTAKES THAT ITS REGULATORY AUTHORITIES WILL:

QUOTE (1) BEGIN AND CONCLUDE, AS SOON AS PRACTICABLE, RULE MAKING PROCEDURES TO IMPLEMENT ACCEPTANCE OF THE ADVANCE BOOKING CHARTER (ABC) RULE OF THE FEDERAL REPUBLIC ON A CONTINUING BASIS DURING THE LIFE OF THIS UNDERSTANDING OR ANY WHICH MAY SUPERSEDE IT, FOR THE PURPOSE OF DETERMINING THE CHARTERWORTHINESS OF TRAFFIC WHICH ORIGINATES IN THE FEDERAL REPUBLIC AND

CONFORMS TO THE SAID ABC RULE OF THE FEDERAL REPUBLIC.

QUOTE (2) AS AN INTERIM MEASURE, AND UNTIL SUCH TIME AS
THE ACTIONS MENTIONED IN (1) ABOVE ARE EFFECTUATED,
GRANT INDIVIDUAL CASE WAIVERS OF SUCH PROVISIONS OF ITS
CHARTERWORTHY REGULATIONS AS MIGHT PRECLUDE THE OPERAT-
ION OF ANY INDIVIDUAL FLIGHT OR SERIES OF ABC (OR ABC
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AND TGC SPLIT CHARTER) FLIGHTS, PROVIDED THE ABC
GROUP MOVEMENTS FOR WHICH WAIVERS ARE SOUGHT ORIGINATE
IN THE FEDERAL REPUBLIC AND CONFORM TO THE ABC RULE OF
THE FEDERAL REPUBLIC.

ROMAN THREE. PARTICULAR ACTIONS OF THE FEDERAL REPUBLIC
OF GERMANY.

QUOTE THE FEDERAL REPUBLIC UNDERTAKES THAT ITS REGULAT-
ORY AUTHORITIES WILL TAKE ALL APPROPRIATE ACTIONS TO
PERMIT THEM TO ACCEPT AS CHARTERWORTHY, TRAFFIC WHICH
ORIGINATES IN THE UNITED STATES AND CONFORMS TO THE
TGC RULE AND SO TO ACCEPT THE CHARTERWORTHINESS OF
SUCH TRAFFIC. UNQUOTE

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QUOTE FOOTNOTE ONE. TGC MEANS THOSE RULES OF THE UNITED STATES EMBODIED IN PART 372 A OF THE SPECIAL REGULATIONS OF THE UNITED STATES CIVIL AERONAUTICS BOARD, AND ANY AMENDMENT THERETO. ABC MEANS THOSE RULES OF THE FEDERAL REPUBLIC EMBODIED IN THE FEDERAL REPUBLIC' S NOTAM N31/73 OF FEBRUARY 1, 1973, AND ANY AMENDMENTS THERETO.

QUOTE FOOTNOTE TWO. IN THIS REGARD, AND IN ORDER TO IDENTIFY THE ORIGIN OF TRAFFIC AND TO MONITOR CHARTER PRICES, EACH PARTY MAY REQUIRE FOR EACH FLIGHT INFORMATION RELATING TO THE PROPOSED DATE, TIME AND ROUTING OF THE FLIGHT, THE IDENTITY OF THE TRAVEL ORGANIZER AND THE NUMBER OF SEATS CONTRACTED FOR, AS WELL AS THE PRICES PROPOSED TO BE CHARGED TO AND ULTIMATELY PAID BY THE TRAVEL ORGAINZER AND THE PASSENGER.

QUOTE FOOTNOTE THREE. BY WAY OF EXCEPTION, ALL PASSENGER LISTS AND OTHER SIMILAR DOCUMENTS REQUIRED BY THE REGULATORY AUTHORITIES OF THE COUNTRY OF ORIGIN OF THE TRAFFIC SHALL BE FILED WITH THE REGULATORY AUTHORITIES OF BOTH PARTIES ON SPLIT CHARGER FLIGHTS OF TGC TRAFFIC AND ABC TRAFFIC. UNQUOTE
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